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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/944,268	08/30/2001	Charles R. Allen	1787-11800	1011

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EXAMINER

GARBER, CHARLES D

ART UNIT	PAPER NUMBER
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2856

DATE MAILED: 08/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Applicati n No.

09/944,268

Applicant(s)

ALLEN, CHARLES R.

Examiner

Charles Garber

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10-12 is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☒ Claim(s) 5, 7, 8 and 13-16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other:

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Continued Prosecution Application

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/21/2003 has been entered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Lukez (US Patent 5,065,892).

Regarding claim 1, Lukez discloses a structure for mounting sensors in containers including a conventional bracket 4 shown in figures 1 and 2 with a lower flange 8 or base portion, a sleeve like projection 24 extending from the flange, and a bracket extension 36 with sleeve like side wall 40. The bracket extension or second sleeve is removable and slidingly engagable with the projection or first sleeve by inspection. The extension or removable second sleeve may be prevented from complete rotation relative to the projection or first sleeve when engaged with the projection by the clamp 66 which 'secures' the members together. Though the

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reference does not expressly recite the members being prevented from rotating relative to one another Examiner considers this to be an inherent result when the clamp 66 is sufficiently tightened due to friction and the close fit as shown.

As for claim 2, the flange 8 or base includes a top surface, at least one side surface, and a bottom surface as shown in the figures.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lukez (US Patent 5,065,892) in view of admitted prior art (Admission).

Regarding claim 3, the Lukez reference applied to claim 1 further discloses holes extending through the flange or base top surface for screws to fixedly engage the holes and the device to a container or housing. However, the reference lacks the transducer mount includes slots on the base top surface at the attaching holes. Admission teaches

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slots at the base attaching holes as shown in figure 1. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include slots in the base at the attaching holes in order to allow the use of shorter fasteners while providing for stiff and secure base that will not flex and disrupt the seal between the base and the container.

As for claim 4, Examiner maintains his unchallenged Official Notice that it is widely known in the art to provide slits, slots and grooves in various devices and one of ordinary skill would have known of their advantageous use in allowing easy separation by prying with a screwdriver.

Allowable Subject Matter

Claims 10-12 are allowed.

Claims 5, 8, 9, 13-16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Please see earlier Office Action for reasons for allowability of claims 5, 8-16.

The following is a statement of reasons for the indication of allowable subject matter in claim 7:

Applicant admits a sensor extracting tool includes a valve and retraction mechanism for removing a sensor from a sensor mount mounted on a pipe or container. The tool permits removal of the sensor for servicing or replacement without exposing the operator or outside environment to what is inside the container.

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In claim 7, the second sleeve outer diameter includes screw threads for attaching an extractor tool for removing a transducer and a transducer holder from the first sleeve inner diameter.

One would not be motivated to modify the Lukez reference discussed above to include external threads because the sensor 20 is already easily removed by removing the clamp 66 and there is not need to isolate the environment within the tank 16.

The prior art of Legace et al. (US Patent 5,186,050) also includes two slidably engageable sleeve like members 42, 42. However, one would not be motivated to include external threads on the member 2 (which is equivalent to the second sleeve of the instant invention) for attachment of a sensor removal tool because the device already has a sealing feature (in the apparatus 40 or 70 shown in all the figures) which isolates the sensed environment as the tool is intended to do.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hackler et al. (US Patent 5,727,498) discloses cylindrical or sleeve like male adapter 14 and reducing coupling 22 secured together with adhesive which are equivalent to the first and second sleeve prevented from rotating relative to each other of the instant invention of claim 1 (column 4 lines 15-29). The base however attaches by a threaded connection rather than with fasteners as in the instant invention of depending claim 3. In fact, the threaded base is intended as the primary means by which an operator would remove the device and the litmus tester within for servicing. In

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addition the adhesive will likely prevent coupling from being removed. Because of this, one would not be motivated to modify the device so that the coupling would be removable from the adapter as in the two sleeves of the instant invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Garber whose telephone number is (703) 308-6062. The examiner can normally be reached on 6:30 a.m. to 3:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams can be reached on (703) 305-4705. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7725 for regular communications and (703) 308-7725 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4900.



cdg
August 8, 2003